

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X

UNITED STATES OF AMERICA

S1 07 Cr. 699 (HB)

- v -

NOTICE OF MOTION
TO DISMISS

DEMI ABRIHAM, a/k/a "300,"
PEDRO CABRERA, a/k/a "Pete,"

Defendants.

X

S I R S:

PLEASE TAKE NOTICE, that upon the annexed joint affirmation of **DAVID SEGAL**, attorney for defendant **DEMI ABRIHAM** and **ROBERT BLOSSNER**, attorney for defendant **PEDRO CABRERA**, dated November 5, 2007, the indictment and all prior proceedings, the undersigned, will move this Court before the Honorable Harold Baer , United States District Judge for the Southern District of New York, at the United States Courthouse, 500 Pearl Street, New York, New York, November 19, 2007, for an Order:

I. Dismissing the indictment on the grounds that the outrageous conduct of the government violated the due process rights of each defendant.

II. And for such other and further relief as the Court deems just and proper.

Dated: New York, New York
November 5, 2007

Yours, etc.

DAVID SEGAL, ESQ. (DS-5108)

Attorney for Defendant

DEMI ABRIHAM

30 Vesey Street

New York, New York 10007

(212) 406-9200

ROBERT BLOSSNER, ESQ. (RB-0526)

Attorney for Defendant

PEDRO CABRERA

30 Vesey Street

New York, New York 10007

(212) 571-0805

TO: CLERK

United States District Court

Southern District of New York

500 Pearl Street

New York, New York 10007

TODD BLANCHE

Assistant United States Attorney

Southern District of New York

One St. Andrews Plaza

New York, New York 10007

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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S1 07 Cr. 699 (HB)

- v -

DEMI ABRIHAM, a/k/a "300,"
PEDRO CABRERA, a/k/a "Pete,"

Defendants.

JOINT ATTORNEY
AFFIRMATION IN
SUPPORT OF
DEFENDANTS MOTION
TO DISMISS

X

DAVID SEGAL and ROBERT BLOSSNER, attorneys duly licensed to practice law in the Courts of the State of New York, affirm the truth of the following under the penalty of perjury:

1. We are attorneys duly admitted to practice before this Court.

2. We are fully familiar with the facts and circumstances of this indictment and we make this affirmation in support of the within motion to dismiss.

3. This affirmation is made upon information and belief based on the indictment, prior discovery and other documents produced by the government relating to each defendants arrest.

4. We make this motion jointly due to the, similarity of our respective client's circumstances based upon the discovery to date and for the purpose of judicial economy.

STATEMENT OF FACTS

Defendants Demi Abriham and Pedro Cabrera hereby move this Court for an order dismissing the indictment against them. The defendants set out the following facts in support of their Motion:

1. The crimes alleged against the defendants were manufactured solely by the government, from start to finish.

2. The conduct of the government in setting up a robbery of nonexistent cocaine from nonexistent Colombian narcotics traffickers, solely for the purpose of inducing the commission of a crime, was outrageous.

3. The Due Process Clause of the Fifth Amendment to the United States Constitution guarantees that the Defendants will receive fundamental fairness in a criminal prosecution.

4. The outrageous conduct of the government violated the due process rights of each defendant.

5. The defendants are thus entitled to the dismissal of the indictment.

A Memorandum in Support of Defendant's Motion to Dismiss the Indictment has been filed together with this Motion and is incorporated into the Motion as if set forth herein

Respectfully submitted,

David Segal, Esq. (DS-5108)
Attorney for Defendant
Demi Abriham
30 Vesey Street,
New York, NY 10007
Telephone: (212) 406-9200

Robert Blossner, Esq. (RB- 0526)
Attorney for Defendants
Pedro Cabrera
30 Vesey Street
New York, NY 10007
Telephone: (212) 571-0805

CERTIFICATE OF SERVICE

I hereby certify that on November 6, 2007, I caused
a true and correct copy of the foregoing:

**1. MOTION TO DISMISS WITH JOINT AFFIRMATION AND
MEMORANDUM OF LAW**

together with the certificate of service, to be served
via the Court's Electronic Case File System and first class
mail, upon the following person:

To: **Todd Blanche**
Assistant U.S. Attorney
One St. Andrews Plaza
New York, NY 10007

Dated: November _____, 2007

DAVID SEGAL

Ind. No.: S1 07 Cr. 699 Year
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RJI No.:

Hon:

UNITED STATES OF AMERICA,

-against-

DEMI ABRIHAM, a/k/a "300,"
PEDRO CABRERA, a/k/a "Pete,"

Defendants

MOTION TO DISMISS WITH AFFIRMATION AND MEMORANDUM OF LAW

DAVID SEGAL and ROBERT BLOSSNER

Attorney for Defendants

Office & Post Office Address, Telephone

30 VESEY STREET

NEW YORK, N.Y. 10007

(212) 406-9200/ (212) 571-0805

To: Signature (Rule 130-1.1-a)

Print name beneath Attorney(s) for

Service of a copy of the within is hereby admitted.
Dated,

Attorney(s) for

Please take notice

NOTICE OF ENTRY

that the within is a (certified) true copy of a
duly entered in the office of the clerk of the within names court on

NOTICE OF SETTLEMENT

that an order of which the within is a true copy will be presented for settlement
to the HON.

one of the judges of the within names court, at
on

Yours, etc.

DAVID SEGAL and ROBERT BLOSSNER

Attorney for Defendant

Office & Post Office Address

30 VESEY STREET

NEW YORK, NY 10007

To:

Attorney(s) for: